



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers  
WASHINGTON, D.C. 20314

16 MAR 1983

REPLY TO  
ATTENTION OF:

DAEN-CWO-R

SUBJECT: Implementation of Section 6, P.L. 97-140

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1. References:

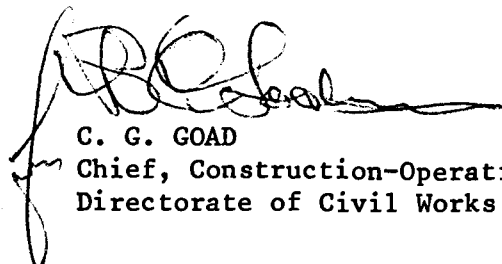
- a. DAEN-CWR-R multiple letter, dated 11 Feb 82, SAB.
- b. DAEN-CWO-R multiple letter, dated 10 Jan 83, SAB.

2. As a result of additional inquiries concerning the impact of P.L. 97-140 on the lakeshore management program, we are furnishing the following additional guidance.

3. It is the opinion of the Office of Chief Counsel that our "citation authority and sanctions provided for in 16 U.S.C. 460d can be invoked despite the enactment of Section 6. Section 6 prescribes a moratorium on enforced removal actions only. It in no way alters or repeals fines or sanctions contemplated in other statutes." The use of citation authority as a means of gaining compliance with the terms and conditions of permits issued prior to the date of enactment of P.L. 97-140 remains an option available to you. However, it is imperative that we exercise good judgment to insure the spirit of the law is upheld. The use or threat of a citation for violation of Title 36 CFR must not be used to compel removal of structures protected by Section 6, P.L. 97-140.

4. The Office of Chief Counsel further advises that "appurtenant structures" as written in P.L. 97-140 should be interpreted to include other facilities not specifically included in Section 6, i.e., boat ramps, power lines, light poles, waterlines, improved walkways, etc. It appears the intent of Congress was to prevent enforced removal of all lawfully installed facilities, if they do not occasion a threat to life or property.

FOR THE COMMANDER:



C. G. GOAD

Chief, Construction-Operations Division  
Directorate of Civil Works

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(See page 2.)